

Remarks

Claims 1-11 and 13-18 were rejected based on U.S. patent 3,628,733 ("Kahn") alone and/or in combination with U.S. patent 5,730,332 ("Zimmerhakel"). In view of the amendment above and remarks below, reconsideration is respectfully requested.

Provisional Election

Applicants hereby confirm that their representative made a provisional election, without traverse, to prosecute the invention of species A: Figures 1-3, claims 1-11 and 13-18. By virtue of paragraph 2 of the Office Action, the Office has implemented a cancellation of claim 12 (as being withdrawn because of being directed to a non-elected species). That cancellation is without prejudice to the filing of a divisional application on the claim 12 subject matter. Hence, claim 12 is shown as canceled in the above listing of the claims being proposed.

With respect to the inquiry of paragraph 3 of the Office Action, Applicants do not believe that the cancellation of claim 12 changed the appropriate inventorship from that listed in the original filing.

Art Rejection

Claims 1-7 and 10-18 were rejected based on Kahn. Claims 8 and 9 were rejected based on Kahn in combination with Zimmerhakel. In any event, all remaining claims have been narrowed (by virtue of amendments to claims 1 and 2) to more clearly distinguish Kahn and the other art of record. Hence, reconsideration is respectfully requested.

First, it is respectfully noted that the finding of anticipation based on Kahn with respect to original claims 1-7, 10-11, and 13-15 was not appropriate. Claim 1 (and all claims dependent thereon) required truncation at the outer end of the first pathway to be at a different angle than the truncation at the outer end of the second pathway. In

contrast, Kahn's pathways terminate at their outer end in a frustum shape 24 (see column 2, at line 20, of that patent).

Nothing in the specification indicates that the frustum is truncated at its outlet end. If anything, from Fig. 2 it appears that the outlet uniformly widens without any truncation.

It is acknowledged that Kahn's Fig. 3 drawing shows some inward dishing at the outlets. However, this is believed not to represent any truncation. Rather, it is believed to merely represent a draftperson's attempt to represent the outlet in that view.

In any event, regardless of what Fig. 3 depicts, it clearly shows the two outlets having identical cross sections. Thus, even if there is some weird uniform circumferential dishing, the same pattern occurs at both places. Contrary to the assertion on page 4 of the Office Action, there is therefore no different truncation angle between the outlets taught by Kahn. As a result, any finding of anticipation is not supported.

Moreover, nothing about Kahn suggests the elegant solution of Applicants to truncate at differing angles to achieve important separation results with minimal cost. In fact, the Fig. 3 depiction shows that Kahn's spray pattern quickly begins to merge.

In any event, to even more clearly distinguish Kahn, the claims have now been amended to further recite the preferred 35 degree to 55 degree angle limitation appearing in paragraph [0042] of the application which provides the optimal performance. Kahn's Fig. 3 depiction shows dishing at very close to vertical.

Moreover, claim 2 (and claims 3 and 4 dependent thereon), now additionally emphasize that both outlets have that 35 degree to 55 degree truncation angle limitation, and that this results in a diverging spray pattern for some period. Again,

see paragraph [0042] for support for this additional limitation.

All other claims are dependent on amended claim 1, and thus similarly distinguish the references.

With additional reference to claims 8 and 9, Zimmerhake1 was noted for its plastic material, and does not address the deficiency of Kahn relative to amended claim 1.

With additional reference to claims 16-18, they are also distinguished by virtue of dependency on amended claim 1. Moreover, Applicants respectfully traverse the finding that keeping the streams visually distinguishable for over about two inches, or over about six inches, or even over about nine inches is merely discovering an optimal condition.

In this regard, there is a natural tendency of a spray to widely spread out quickly when emitted from a single point. This is particularly true with high pressure aerosol sprays. Thus, even if one appreciated the goal of keeping the sprays separate to give the consumer some assurance of two ingredients being present, the art would still not have solved the problem of how to achieve the result and overcome the tendency of an aerosol spray to blend with an adjacent aerosol spray emitted nearby.

Moreover, it was common in the art, particularly when multiple fluids were being sprayed from multiple outlets, to want to quickly mix the material to make a uniform blend at the point of use. Hence, the art would have been led away from structures designed to separate multiple fluid streams for long distances.

Conclusion

In view of the above amendment and remarks,
reconsideration and allowance is respectfully requested. No
additional fee is believed necessary for the entry of this
amendment. However, if one is, please charge the amount of
the fee to Deposit Account 10-0849.

Respectfully submitted,
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